

§ 76.400

to other participants if the conduct occurred for or on behalf of the joint venture, grant pursuant to a joint application, or similar arrangement or with the knowledge, approval, or acquiescence of these participants. Acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

Subpart D—Suspension

§ 76.400 General.

(a) The suspending official may suspend a person for any of the causes in § 76.405 using procedures established in §§ 76.410 through 76.413.

(b) Suspension is a serious action to be imposed only when:

(1) There exists adequate evidence of one or more of the causes set out in § 76.405, and

(2) Immediate action is necessary to protect the public interest.

(c) In assessing the adequacy of the evidence, the agency should consider how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn as a result. This assessment should include an examination of basic documents such as grants, cooperative agreements, loan authorizations, and contracts.

§ 76.405 Causes for suspension.

(a) Suspension may be imposed in accordance with the provisions of §§ 76.400 through 76.413 upon adequate evidence:

(1) To suspect the commission of an offense listed in § 76.305(a); or

(2) That a cause for debarment under § 76.305 may exist.

(b) Indictment shall constitute adequate evidence for purposes of suspension actions.

§ 76.410 Procedures.

(a) *Investigation and referral.* Information concerning the existence of a cause for suspension from any source shall be promptly reported, investigated, and referred, when appropriate, to the suspending official for consideration. After consideration, the suspending official may issue a notice of suspension.

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(b) *Decisionmaking process.* HHS shall process suspension actions as informally as practicable, consistent with principles of fundamental fairness, using the procedures in § 76.411 through § 76.413.

§ 76.411 Notice of suspension.

When a respondent is suspended, notice shall immediately be given:

(a) That suspension has been imposed;

(b) That the suspension is based on an indictment, conviction, or other adequate evidence that the respondent has committed irregularities seriously reflecting on the propriety of further Federal Government dealings with the respondent;

(c) Describing any such irregularities in terms sufficient to put the respondent on notice without disclosing the Federal Government's evidence;

(d) Of the cause(s) relied upon under § 76.405 for imposing suspension;

(e) That the suspension is for a temporary period pending the completion of an investigation or ensuing legal, debarment, or Program Fraud Civil Remedies Act proceedings;

(f) Of the provisions of § 76.411 through § 76.413 and any other HHS procedures, if applicable, governing suspension decisionmaking; and

(g) Of the effect of the suspension.

§ 76.412 Opportunity to contest suspension.

(a) *Submission in opposition.* Within 30 days after receipt of the notice of suspension, the respondent may submit, in person, in writing, or through a representative, information and argument in opposition to the suspension.

(b) *Additional proceedings as to disputed material facts.*

(1) If the suspending official finds that the respondent's submission in opposition raises a genuine dispute over facts material to the suspension, respondent(s) shall be afforded an opportunity to appear with a representative, submit documentary evidence, present witnesses, and confront any witness the agency presents, unless:

(i) The action is based on an indictment, conviction or civil judgment, or

(ii) A determination is made, on the basis of Department of Justice advice,